

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

CHAD KINGSBURY

PLAINTIFF

V.

CAUSE NO. 1:20cv059-SA-DAS

**SOUTHERN CARE, INC. D/B/A
KINDRED HOSPICE**

DEFENDANTS

COMPLAINT

This is an action to recover damages and a declaratory judgment for violations of the Americans with Disabilities Act against Southern Care, Inc. d/b/a Kindred Hospice (“Kindred”).

In support, the Plaintiff states as follows:

1.

The Plaintiff, Chad Kingsbury (“Plaintiff”), is an adult resident citizen of Columbus, Lowndes County, Mississippi.

2.

Kindred operates a hospice facility in Starkville, Mississippi at 403 Hospital Road, Starkville, Mississippi 39759. Kindred’s corporate office is located at 655 Brawley School Road, Suite 200, Mooresville, North Carolina 28117. Kindred may be served with process through its registered agent in Mississippi: C T CORPORATION SYSTEM, 645 LAKELAND EAST DRIVE, Suite 101, FLOWOOD, MS 39232.

3.

The Court has federal question jurisdiction over this matter as it is brought pursuant to the Americans with Disabilities Act (“ADA”). Venue is appropriate in this Court as the facts and circumstances giving rise to this cause of action occurred in Oktibbeha County, Mississippi.

4.

The Plaintiff has filed the required charge of discrimination against Kindred with the Equal Employment Opportunity Commission (“EEOC”) and has received a right to sue letter from the EEOC.

5.

The Plaintiff worked as a chaplain for Kindred’s hospice facility in Starkville, Mississippi. The Plaintiff was hired on November 16, 2018. During the relevant time period the Plaintiff was disabled due to back problems and an infection in his foot. As a result of these ailments, the Plaintiff was forced to use a walker. The Plaintiff meets the definition of a disabled person under the ADA, since his disabilities substantially limit the major life activity of walking. The Plaintiff’s disability, however, at no time prevented him from performing the essential functions of his job as a chaplain for Kindred. The Plaintiff was hired by Ben Peal, who was the medical director for Kindred. Peal was aware of the Plaintiff’s disability at the time he hired the Plaintiff and would not have hired the Plaintiff had he not been clearly qualified for the position of chaplain based on his prior work history and prior religious education.

6.

On January 8, 2019, Ben Peal fired the Plaintiff *via* email without giving him an explanation. At the time he was terminated, Ben Peal had excused the Plaintiff from work so he could receive medical treatment for his foot. Later he was told by a colleague who was a nurse at Kindred that Ben Peal had stated to employees at Kindred that Peal fired the Plaintiff due to his use of a walker which Peal had stated “did not fit the image” of Kindred. As a result of being terminated, the Plaintiff lost his health insurance through Kindred. Since he was unable to pay

for the needed medical treatment, his foot condition grew worse which ultimately led to his foot being amputated.

7.

Terminating an individual who can perform the essential functions of his job because of his disability is a violation of the ADA. 42 U.S.C.S. § 12112(a). As a result of this violation, the Plaintiff is entitled to actual damages to compensate him for anxiety and mental stress. He is also entitled to back pay, front pay, pre-judgment interest, post-judgment interest, attorney's fees and costs. The Plaintiff also seeks punitive damages from Kindred. The Plaintiff also requests a declaratory judgment that the actions of Kindred in firing him violated the ADA. The Plaintiff requests a trial by jury.

THIS, the 1st day of April, 2020

Respectfully submitted,

CLAYTON O'DONNELL, PLLC
P.O. DRAWER 676
OXFORD, MS 38655
TELEPHONE: (662) 234-0900

s/S. Ray Hill, III
S. RAY HILL, III, MSB #100088
rhill@claytonodonnell.com
Attorney for Plaintiff